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6 **SUPERIOR COURT OF ARIZONA**  
7 **IN AND FOR THE COUNTY OF MARICOPA**

8 JOHN GILDING, a married man,

9 Plaintiff,

10 v.

11 JOHN S. CARR, a married man, et.al.

12 Defendants.

CASE NO. CV2007-016329

DEFENDANTS JOHNSTON AND  
PALMERS' JOINDER IN  
DEFENDANT NATCA AND  
GHAFFARI'S MOTION FOR ENTRY  
OF A FINAL JUDGMENT AND AN  
ORDER CERTIFYING AS FINAL  
RULINGS OF THE COURT THE  
MINUTE ENTRIES OF JULY 9 AND  
OCTOBER 15, 2010

(Assigned to the Honorable Dean M.  
Fink)

18  
19 Pursuant to Arizona Rules of Civil Procedure 54(b), defendants Jerry and Ellen Johnston  
20 and Stephen and Lori Palmer, hereby move for entry of final judgment and an order certifying as  
21 final the rulings of the Court dated July 9 and October 15, 2010. Defendants Johnston and  
22 Palmer hereby join in and incorporate by this reference the motion of NATCA and Ghaffari filed  
23 on May 20, 2011.

24  
25 In addition to the facts and arguments presented by NATCA and Ghaffari, Johnston and  
26 Palmer offer the following.  
27  
28

1 By order dated July 8, 2010, the Court granted Johnston and Palmers' Motion for  
2 Summary Judgment in its entirety. All claims against Johnston and Palmer were dismissed by  
3 the Court. The Court has broad discretion to enter final judgment in cases such as this in which  
4 all claims against parties to the litigation have been dismissed. *GM Development Corporation v.*  
5 *Community Mortgage Corporation*, 165 Ariz. 1, 9, 795 P. 2d 827 (App. 1990) ("Rule 54(b)  
6 allows the trial court when presented with multiple claims or multiple parties, to enter final  
7 judgment as to one or more, but fewer than all of the claims or parties."). Courts should avoid  
8 situations in which courts of appeals are likely to have to decide the same issues in two or more  
9 appeals. *Id.* at p.9, citing *Continental Casualty v. Superior Court*, 130 Ariz. 189, 191, 635 P. 2d  
10 174, 176 (1981).  
11

12 In its October 13<sup>th</sup> ruling denying plaintiff's motion for a new trial, the Court noted that  
13 the remaining issues for trial are very narrow, "accordingly, the Court ruled that, with the single  
14 exception of the statement about Mr. Gilding causing the death of Ms. Peterson, everything  
15 published about him in Mr. Carr's blog, based as it was on an EEOC finding adverse to Mr.  
16 Gilding, was protected and non-defamatory. . . . Mr. Gilding makes no showing that [the  
17 "NATCA defendants"] had anything to do with the accusation about Ms. Peterson's death."  
18 Ruling at p. 2. The Court properly concluded that there is no evidence that Palmer or Johnston  
19 had any role in publishing the statement concerning Ms. Peterson's death. Thus, there is little  
20 likelihood that a court of appeals would have to decide the same issues twice if the Court were  
21 to enter final judgment for Johnston and Palmer.  
22

23 Therefore, because there is no just reason for delay in the entry of final judgment,  
24 Defendants Johnston and Palmer respectfully request that the Court grant the motion and enter  
25 final judgment in their favour.  
26  
27  
28

1 One further point should be made. On October 20, 2010, Plaintiff filed a "Motion for  
 2 Rule 54(b) Finding as to This Court's Rulings July 9, 2010 and October 15, 2010." That motion  
 3 was filed together with a motion to stay the proceedings pending the outcome of an appeal. On  
 4 the same day, Plaintiff filed a notice of appeal relating to the Court's rulings of July 9 and  
 5 October 15.  
 6

7 By order dated December 9, 2010, the Court declined to rule on Plaintiff's motion for  
 8 Rule 54(b) judgment because the pending appeal relieved the Court of jurisdiction to decide the  
 9 motion. The Court of Appeal dismissed the appeal on February 1, and the matter is now ripe for  
 10 a decision from this Court. Plaintiff has not withdrawn the motion. However, Plaintiff has  
 11 declined to join in the motions for Rule 54(b) relief filed by Defendants NATCA, Ghaffari,  
 12 Johnston and Palmer.  
 13

14 This is clearly a situation in which the Court should exercise its discretion and enter final  
 15 judgment for Johnston and Palmer. A form of order has been submitted herewith.

16 RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of May, 2011.

17 S/ MICHAEL J. KEENAN

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21 Original of the foregoing  
 22 Efiled with the Clerk of  
 23 Superior Court this 23<sup>rd</sup>  
 24 Day of May, 2011.

25 Foregoing emailed this  
 26 23<sup>rd</sup> day of May, 2011 to  
 27 Hon. Dean M. Fink.

28 Copies of the foregoing  
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